

AMENDED IN SENATE APRIL 9, 2007

**SENATE BILL**

**No. 395**

---

**Introduced by Senator Cox**

February 21, 2007

---

An act to add ~~Section 13228.5~~ Part 2.77 (commencing with Section 10785) to Division 6 of the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

SB 395, as amended, Cox. Water supply: groundwater aquifers.

*Under existing law, the right to water or to the use of water is limited to that amount of water that may be reasonably required for the beneficial use to be served. Existing law declares that the storing of water underground, and related diversions for that purpose, constitute a beneficial use of water if the stored water is thereafter applied to the beneficial purposes for which the appropriation for storage was made.*

*Existing law establishes the Porter-Cologne Water Quality Control Act (Porter-Cologne), a statewide program for the control of the quality of all the waters in the state. The act prescribes water quality requirements to be carried out by the State Water Resources Control Board and the California regional water quality control boards.*

*This bill would establish the North American Basin Groundwater Storage Act of 2007. The bill would make findings and declarations of the Legislature relating to the use of groundwater aquifers to increase water supply reliability. The bill would define several terms for purposes of the act. The bill would authorize local public agencies located in the North American subbasin of the Sacramento Valley Groundwater Basin to implement projects that use an aquifer storage and recovery well to inject drinking water into a groundwater aquifer, store that drinking water in that aquifer, and later pump that drinking water for the local*

public agency's use. The bill would require that local public agency to conduct a public hearing concerning the project and provide notice, as specified.

The bill would require the state board and regional board, in considering any aquifer storage and recovery project under Porter-Cologne, to determine the drinking water to be injected and stored by that project to be protective of public health, and the storage of that water a beneficial use of groundwater, if the project proponent demonstrates that the project meets specified criteria.

~~Existing law requires that the water resources of the state be put to beneficial use and that water conservation be exercised in the interest of the people and for the public welfare.~~

~~This bill would declare the intent of the Legislature to enact legislation to facilitate groundwater aquifer use to increase the reliability of Central Valley regional water supplies.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Part 2.77 (commencing with Section 10785) is  
2     added to Division 6 of the Water Code, to read:

3

4     PART 2.77. NORTH AMERICAN BASIN GROUNDWATER  
5                     STORAGE ACT OF 2007

6

7     10785. This part shall be known as the North American Basin  
8     Groundwater Storage Act of 2007.

9     10786. The Legislature hereby finds and declares all of the  
10    following:

11    (a) In recent years, the state and its agencies have begun to  
12    focus on the possibility of storing water in groundwater aquifers  
13    as a means of ameliorating the chronic mismatch between state  
14    water demand and supply.

15    (b) In 1996, California voters approved Proposition 204, which  
16    declared that the state should plan to meet the water supply needs  
17    of all beneficial uses of water utilizing a wide range of strategies,  
18    including the conjunctive use of surface and groundwater supplies.

19    (c) In 2000, California voters approved Proposition 13, which  
20    declared the conjunctive management of surface water and

1 groundwater as an effective way to improve the reliability of water  
2 supply.

3 (d) Also in 2000, numerous state and federal agencies signed  
4 the CALFED Record of Decision, which identified the possibility  
5 of 500,000 to 1,000,000 acre-feet of new groundwater storage in  
6 the California.

7 (e) In 2005, the Department of Water Resources published the  
8 California Water Plan Update, which estimated that it may be  
9 possible to increase annual water deliveries in California by  
10 500,000 acre-feet by developing 9,000,000 acre-feet of new  
11 groundwater storage in the state.

12 (f) Two of California's largest rivers, the Sacramento River and  
13 the American River, converge at Sacramento, and the United States  
14 Bureau of Reclamation owns and operates Folsom Dam and  
15 Reservoir near Sacramento and, through that reservoir's operation,  
16 provides surface water to much of the Sacramento region.

17 (g) Water delivered from Folsom Dam and Reservoir is of high  
18 quality, generally having total dissolved solids that average  
19 approximately 50 milligrams per liter.

20 (h) Before the Folsom Dam and Reservoir's construction, and  
21 continuing to the present, much of the Sacramento region has  
22 utilized groundwater as a primary water supply.

23 (i) Historic groundwater pumping in the Sacramento region  
24 has overdrafted the groundwater aquifer north of the American  
25 River, creating storage space in that aquifer.

26 (j) Water injection technology has improved in recent years,  
27 making it possible for water suppliers to inject water into  
28 groundwater aquifers when surface water is available, and to use  
29 injected water in drier times when surface sources may be  
30 inadequate.

31 (k) The primary law under which the state ensures the safety of  
32 drinking water to the public is the California Safe Drinking Water  
33 Act (Chapter 4 (commencing with Section 116270) of Part 12 of  
34 the Health and Safety Code).

35 (l) For the reasons stated above, it is appropriate to establish  
36 procedures specific to the portion of the Sacramento region north  
37 of the American River that will allow that region to implement  
38 innovative groundwater storage programs that seek to maximize  
39 that region's water supplies and security from drought.

40 10787. As used in this part:

1 (a) “ASR project” means a project of a local public agency that  
2 uses an aquifer storage and recovery well to inject drinking water  
3 into a groundwater aquifer, store that drinking water in that  
4 aquifer, and later pump that drinking water for the local public  
5 agency’s use.

6 (b) “Basin” means the North American subbasin of the  
7 Sacramento Valley Groundwater Basin, as defined by the  
8 department’s report entitled “California’s Groundwater: Bulletin  
9 118” updated in 2003.

10 (c) “Beneficial uses” means beneficial uses defined in  
11 subdivision (f) of Section 13050 for the relevant groundwater  
12 aquifer.

13 (d) “California Safe Drinking Water Act” means Chapter 4  
14 (commencing with Section 116270) of Part 12 of Division 104 of  
15 the Health and Safety Code, as it may be amended.

16 (e) “Designated storage zone” means either: (1) the portion of  
17 an aquifer that an ASR project proponent identifies as the area  
18 where it believes, based on engineering analysis, that injected  
19 drinking water will be stored before it is pumped; or (2) an  
20 identified area of depressed groundwater levels in the aquifer,  
21 which the project proponent intends to use to store injected  
22 drinking water.

23 (f) “Drinking water” means water that the project proponent  
24 serves to the public, and is in compliance with the applicable  
25 permit issued by the State Department of Health Services.

26 (g) “Drinking water standards” means primary and secondary  
27 drinking water standards as defined and promulgated under the  
28 California Safe Drinking Water Act.

29 (h) “Groundwater” means all water beneath the surface of the  
30 earth within the zone below the water table in which the soil is  
31 completely saturated with water, but does not include water that  
32 flows in known and definite channels.

33 (i) “Porter-Cologne” means the Porter-Cologne Water Quality  
34 Control Act (Division 7 (commencing with Section 13000)), as it  
35 may be amended.

36 (j) “Project proponent” means the local public agency that  
37 proposes to implement an ASR project in the basin.

38 (k) “Regional board” means the Central Valley Regional Water  
39 Quality Control Board.

1     *(l) “State board” means the State Water Resources Control*  
2     *Board.*

3     10788. *(a) Notwithstanding any other provision of law, a local*  
4     *public agency located in the basin is hereby authorized to*  
5     *implement an ASR project in the basin. No agency shall be required*  
6     *to exclude other entities from pumping groundwater from any*  
7     *portion of the basin in order to implement an ASR project.*

8     *(b) Prior to approving an ASR project in the basin, the project*  
9     *proponent shall conduct a public hearing concerning the ASR*  
10    *project, give prior written notice of that hearing to all of its*  
11    *customers, and publish a notice prior to that hearing in a*  
12    *newspaper that has a general circulation in the portion of the*  
13    *basin where the ASR project is to be implemented. Notices under*  
14    *this subdivision shall be mailed or published, respectively, not*  
15    *earlier than 30 days before the relevant public hearing, and not*  
16    *later than 10 days before that hearing.*

17    *(c) Prior to the consideration by the regional board of an order*  
18    *authorizing an ASR project in the basin under Porter-Cologne,*  
19    *the project proponent shall certify an appropriate environmental*  
20    *document under the California Environmental Quality Act*  
21    *(Division 13 (commencing with Section 21000) of the Public*  
22    *Resources Code). Nothing in this article shall require a project*  
23    *proponent to certify the environmental document before applying*  
24    *to the regional board for the appropriate order.*

25    10789. *(a) The regional board and state board’s consideration*  
26    *of any ASR project in the basin under Porter-Cologne is governed*  
27    *by this section.*

28    *(b) In considering any ASR project in the basin under*  
29    *Porter-Cologne, the regional board and the state board shall*  
30    *determine the drinking water to be injected and stored by that*  
31    *project to be protective of public health and the storage of that*  
32    *water a beneficial use of groundwater, if the project proponent*  
33    *demonstrates all of the following:*

34    *(1) The proposed drinking water to be injected, stored, and used*  
35    *as part of the ASR project meets the applicable drinking water*  
36    *standards.*

37    *(2) The injected drinking water will be stored within a*  
38    *designated storage zone.*

1     (3) *The development and future implementation of a contingency*  
2     *plan to address the possible escape of injected drinking water from*  
3     *the designated storage zone.*

4     (4) *Notice has been provided, as required by subdivision (b) of*  
5     *Section 10788.*

6     (c) *The Legislature finds and declares that if an ASR project*  
7     *and its project proponent satisfy paragraphs (1) to (4), inclusive,*  
8     *of subdivision (b), injection of drinking water into groundwater*  
9     *storage by that ASR project is consistent with state board*  
10    *Resolution No. 68-16, "Statement of Policy with Respect to*  
11    *Maintaining High Quality of Waters in California," because*  
12    *storage of that water in the basin is consistent with the maximum*  
13    *benefit to the people of the state.*

14    ~~SECTION 1. Section 13228.5 is added to the Water Code, to~~  
15    ~~read:~~

16    ~~13228.5. It is the intent of the Legislature to enact legislation~~  
17    ~~to facilitate the use of groundwater aquifers to increase the~~  
18    ~~reliability of regional water supplies in the Central Valley.~~